

Energy Choice Matters

February 19, 2010

Md. Legislators Propose Electric Customer Education, Electric/Gas Customer Lists

Maryland State Senator Catherine Pugh, House Economic Matters Committee Chairman Dereck Davis, and Delegate Sue Hecht have introduced legislation to require the Maryland PSC and utilities to improve education efforts to make customers aware of electric choice, as a new poll found that nearly half of the state's residents are unaware of their ability to take competitive supply.

"We know that many Marylanders could see substantial savings on their electricity bills if they took advantage of the competitive offers that are out there," said Davis. "Yet it appears that half of Marylanders don't even know that competition exists in the electricity market. It is clear that more needs to be done to educate consumers and make it easy for them to compare prices and, if they choose, pick the supplier who best meets their needs," Davis said.

The legislation (HB 1372, SB 942) would require the PSC to:

- Display on its website a link to a user-friendly customer electricity choice website. Information to be included on the website includes: what is choice, how to shop, FAQs, the kinds of choices available, questions customers should ask competitive electric suppliers, disclosures retail electricity suppliers are required to make to customers, and an easily searchable list of "any" retail supplier offer in a customer's area accessible through a zip code search tool. Under SB 942, each supplier with a current offer "shall" submit its offers to the PSC site.
- Work with media outlets to develop and air public service announcements about electricity choice, directing consumers to the new user-friendly website;
- Convene a stakeholder workgroup to develop the requirements for educational materials and information provided by electric utilities, and
- Report on the education efforts annually to the General Assembly

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FERC: CAISO Virtual Bidding Position Limits Must Be Lifted More Quickly, If in Place at All

FERC approved in principle the majority of the California ISO's general proposed design and features for convergence bidding, though the Commission said that position limits require further justification and should be in place for a shorter period, if used at all. Additionally, FERC said that it had no alternative but to accept the delayed implementation date of February 1, 2011, though it will require monthly status reports from CAISO. Approval of the specific market parameters for convergence bidding is subject to a further CAISO filing and FERC order (ER06-615).

The Commission found that CAISO's proposal to impose position limits on convergence bids at start-up, to be gradually phased out over a period of two years, was not justified, though FERC said that an additional safety net such as position limits may be permissible if justified and phased out over a shorter period.

"The CAISO Conceptual Filing makes no concretely-justified arguments in support of a two-year implementation period, noting only that position limits 'were originally suggested by the [Market Surveillance Committee]' and seconded for inclusion by the Department of Market Monitoring.

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Pa. PUC Approves Penn Power POLR Procurements

The Pennsylvania PUC has certified the results of Penn Power's competitive bidding process for residential and commercial default service supplies for the period June 1, 2010 through May 31, 2011.

The bidding process for the residential customer group consisted of four phases, with bidding conducted in October 2008, January 2009, October 2009 and January 2010. The procurements produced an average bid of \$61.17/MWh. For the entire four-phase process, the successful bidders for residential load were Sempra Energy Trading LLC, Constellation Energy Commodities Group, Inc., NextEra Energy Power Marketing LLC, and FirstEnergy Solutions.

The bidding process for the commercial customer group consisted of two phases, one in mid-October 2009 and the other in mid-January 2010, which produced an average bid of \$54.76/MWh. For the entire two-phase process, the successful bidders for commercial load were American Electric Power Service Corp, Constellation Energy Commodities Group Inc, and NextEra Energy Power Marketing LLC.

PSEG Power Operating Earnings Down on Lower Margins

PSEG Power, PSEG's domestic merchant and marketing arm, reported operating earnings of \$242 million for the fourth quarter, slightly lower than operating earnings of \$246 million a year ago, on lower margins in areas outside of PJM. Net income for the quarter was \$247 million versus \$183 million a year ago.

Customer migration in New Jersey negatively impacted PSEG Power's earnings by about \$10 million in the fourth quarter versus the year-ago period, and by about \$40 million for the entire year. Total migrated load at affiliate PSE&G was about 15% at the end of the year.

Executives do not believe that the impact of migration will increase in 2010 versus 2009 due to the lower differential between Basic Generation Service prices and market prices, and the elimination of the summer premium for

the most recently procured BGS load. Additionally, executives said that the highest impact from migration came during the summer, which was unseasonably cool and depressed market prices, and there is no indication that such events will repeat.

Despite the New Jersey migration, overall margin for PSEG Power was up in PJM by about \$10 million as higher hedge related prices and a 2% increase in nuclear generation more than offset a decline in BGS related volumes. PSEG Power saw lower margins in Texas (\$10 million decrease) and New York/New England (also a \$10 million decrease) from weaker prices.

Aggregate PSEG Power gross margin for the fourth quarter was \$51/MWh versus \$55/MWh a year ago. Gross margin by region was \$657 million at PJM, \$18 million in New England, \$17 million in New York, and \$13 million in Texas.

Partially offsetting the non-PJM margin decreases was a \$10 million benefit from serving default service customers outside of New Jersey on load following contracts, a business PSEG Power has increased recently and expects to continue to increase. PSEG Power cited participation in PECO's default service procurements as an area for growth.

FERC Clarifies Depreciation for FCM De-List Bids

FERC denied rehearing of its order regarding depreciation periods applied to assets submitting de-list bids in the ISO New England Forward Capacity Market, but did clarify one issue (Matters, 9/21/09, ER09-1424).

Dominion Resource Services and the PSEG Companies requested that FERC clarify that in the future, resources may seek to use useful economic life, rather than useful service life, for consideration of proposed depreciation periods. FERC held that, "currently, ISO-NE has shown that it is just and reasonable to use the useful service life as the correct measure of an appropriate depreciation period."

However, FERC clarified that if any changes in demand or the requirements of public authorities which suggest that using the useful service life of a unit as the measure for depreciation is no longer correct, "resources

could seek relief through the ISO-NE stakeholder process or else file with the Commission for a review at that time."

Otherwise, FERC denied rehearing of all issues, including PSEG's argument that a traditional cost-of-service methodology needs to be applied to determine the appropriate compensation if multiple units of a single generation asset are needed for reliability under Forward Capacity Market.

"[W]e have stated in previous Commission orders that cost-of-service computation is available only in limited instances, namely, when a resource submits a permanent de-list bid or a non-price retirement request. The premise of the FCM design is that resources offer bids based on their Going-Forward Costs. PSEG contends that it is discriminatory to pay some units needed for reliability purposes their full cost-of-service, while other units would receive a much lower avoided cost rate. However, this is again an untimely attack against the mechanism for compensating reliability resources that we approved in the Reliability Compensation Order, and we will therefore not consider that argument," FERC said.

Briefly:

Superior Plus Gross Profit from Energy Marketing Rises

Superior Plus reported higher gross profit from its fixed-price energy marketing business of \$8.4 million for the quarter, up from \$3.6 million a year ago (all figures Canadian). The improvement over the prior-year quarter was due principally to the one-time, prior-year impact of foreign currency translation losses and utility transportation settlements. Gross profit from natural gas was \$7.5 million in the fourth quarter, an increase of \$4.1 million compared to the prior-year quarter, as higher per-unit gross profit of 93.8¢/GJ (versus 41.0¢/GJ a year ago) more than offset a 2% decrease in natural gas volumes sold. Excluding the aforementioned special items, gross profit was consistent versus the year-ago period. Electricity gross profit in the fourth quarter of 2009 was \$0.9 million, which is \$0.7 million higher than the prior-year quarter due to the aggregation of additional

commercial customers over the past twelve months. Per-unit electric gross profit was higher at 1.32¢/kWh. Superior is holding an earnings call today; additional details will be provided in Monday's issue.

Power Brokers Seeks Pa. Broker License

Power Brokers LP has applied for a Pennsylvania electric supplier license as broker/marketer to serve commercial customers over 25 kW and industrial customers in all service areas. Power Brokers disclosed that prior to being aware of the licensing requirement in Pennsylvania, it had previously provided consulting and broker services to, "a few customers."

Eisenbach Consulting Seeks Conn. Aggregator License

Eisenbach Consulting applied for a Connecticut electric aggregator certificate to serve all customer classes in all service areas.

SYR Solutions Seeks Pa. Broker License

SYR Solutions, L.P. applied for a Pennsylvania electric supplier license as a consultant serving commercial customers above 25 kW and industrial customers in all service areas.

GSE Consulting, Great Lakes Energy Seek Pa. Broker Licenses

GSE Consulting LP applied for a Pennsylvania electric supplier license as a broker/marketer and aggregator to serve all sizes of commercial and industrial customers in all service areas. Affiliate Great Lakes Energy LLC also applied for a Pennsylvania electric supplier license as a broker/marketer and aggregator to serve all sizes of commercial and industrial customers in all service areas.

U.S. Sun Energy Seeks Pa. Broker License

U.S. Sun Energy (d/b/a Texas Energy Saving) applied for a Pennsylvania electric supplier license as a broker/marketer to serve commercial customers over 25 kW in all service areas.

APPI Signs Additional Pa. Chambers of Commerce

Affiliated Power Purchasers International said

that it has recently entered into partnerships with three additional Pennsylvania chambers of commerce to procure their electric supplies through its Powerful Solutions Program, bringing its statewide total to 10. The new chambers include the Tuscarora Chamber, Mechanicsburg Chamber, and Juniata River Valley Chamber.

FERC Approves Google Energy Request for MBR Authority

FERC granted Google Energy LLC's application for electric market-based rate authority. Google's application was first reported in *Matters* (Matters, 12/29/09).

PUCT Opens Docket on Texas Prompt Payment Act

The PUCT opened docket 37981 for a rulemaking relating to the obligations of electric providers under the Texas Prompt Payment Act. The issue has been recently addressed in Project 36260 (Only in *Matters*, 8/17/09).

Maryland ... from 1

Cost recovery for incremental costs of such PSC activities would occur through the standard methodology prescribed in current law for the assessment of companies subject to the PSC's jurisdiction.

PSC Chairman Douglas Nazarian has routinely been critical of any "subsidization" of retail suppliers (whether it be in the form of non-discounted POR, customer lists, or various other proposals), and the Commission maintained that theme yesterday, releasing the following statement: "The commission has decided consistently that electricity suppliers (like any other for-profit business) should bear their own costs, and that ratepayers should not be required to subsidize the suppliers' marketing and other costs".

Additionally, electric utilities would be required to use their existing education campaigns and communication tools to inform customers about competition, directing them to the PSC's website. A yearly bill insert and other customer newsletters must be a part of this effort. Under the bill, existing utility education campaigns focused on energy efficiency and conservation must be supplemented or

expanded with messages about customer choice and shopping. Costs would be recovered from all customers.

Customer Lists

Additionally, both Davis and Pugh have introduced legislation to require that electric and gas utilities provide competitive suppliers with customer lists (HB 1340, SB 799). However, under SB 799, utilities would be allowed to recover the prudently incurred costs of providing the customer lists, "as determined by the Commission," directly from the supplier requesting the list.

Upon a request from the supplier, utilities would be required to provide the following information for each residential, small commercial, and medium commercial customer in its service area to the requesting supplier:

- Account name and number;
- Billing address;
- Service address;
- Utility rate class;
- SOS type, if any;
- Load profile;
- Power usage for the preceding 12-month period; and
- The type of power supplied to the customer (gas, electricity; or both gas and electricity)

Customers would be included on the lists unless they affirmatively opt-out of the list. The information would be updated quarterly.

Poll

Asked if they currently had the option to choose their electric supplier, 49% of Marylanders said that they do not have the option, despite more than a decade of competition. However, the results are not surprising as the PSC's education efforts ended in 2002, well before the expiration of rate caps, and there have been no sustained efforts by mass market retailers to attract customers, due to the design to the retail market.

Recently, there has been an increase in interest in marketing to residential customers, with Washington Gas Energy Services (which has always been in the market but has only aggressively marketed its products when headroom warranted), Dominion Retail and Constellation Electric/BGE Home all launching

or re-launching residential campaigns (only at Baltimore Gas & Electric for the latter two suppliers). Horizon Power & Light and Liberty Power are also engaged in more limited efforts. Pepco Energy Services, Commerce Energy, and Ohms Energy (since defunct) also had previously made offers in the Maryland residential market, but ceased new acquisitions due to market conditions.

Recent residential offers at BGE have been about 10% off the default service rate, essentially the same savings as available to customers through competitive supply at PPL. However, in about two months, about 20% of residential customers have switched at PPL, while residential migration at BGE is only 4.9% (though double the 2.4% total from January 2009). Pepco has the largest residential migration in Maryland, but shopping there is still only 8.5% of accounts.

Some 18% of respondents said that they were "very likely" to "consider" buying electricity from an electric supplier other than their local utility within the next three months, while another 21% were "likely" to consider switching. Some 32% of respondents said that they were "not at all likely" to consider switching.

Asked which is a better way to control the cost of electricity, 61% of Marylanders said "market competition," while 31% said "government regulation."

Some 51% of voters "strongly" favor "competition" and another 32% "somewhat favor" competition. When asked about "deregulation," 29% "strongly favor" deregulation and another 32% "somewhat favor" deregulation. Only 14% strongly oppose deregulation, while only 5% strongly oppose competition.

The poll found that 81% of Marylanders think that the PSC should do more to bring new suppliers into Maryland's electricity market to give them more choices, and 88% think that the PSC should do more to give consumers more information about their electricity choices.

Asked what policy they favor for the future of the state's electric industry, 69% chose "mak[ing] the market more competitive than it is today, giving consumers more choices of rates, types of power, and billing plans," while only 17% favored "re-regulat[ing] the market so consumers have only one supplier of electricity,

and the cost is set by the state."

Over three-fourths of voters (76%) believe that if the state's political leaders re-write the laws governing electricity competition, they are likely to make mistakes.

"The message from Maryland voters as reflected in the OpinionWorks poll comes through loud and clear," said Jay Kooper, President of the Retail Energy Supply Association. "Maryland consumers have opportunities to substantially save through competition. Maryland consumers want competition and choice, want to be educated about the opportunities they have from Maryland's competitive electricity market, and want the PSC to help them better understand the choices and opportunities they have," Kooper added.

Harry Warren, President of Washington Gas Energy Services, noted that, "[r]esidential customers who signed up with WGES over the last 12 months have saved an average of 10% on their electric bills compared to standard offer service utility rates. In today's uncertain economic times, it is incumbent upon the leadership of this State to drive awareness of this opportunity, educate Maryland customers about their right to choose, and make certain competition works for everyone."

The poll, conducted by OpinionWorks of Annapolis, surveyed a total of 1,000 registered voters statewide November 9-13, 2009. The sample was balanced by region of the state, political party, age, gender, and race/ethnicity to reflect the characteristics of Maryland's registered voter population. The survey's statewide sample carries a maximum margin of error of 3.5 percent.

The poll was commissioned by a coalition of electricity suppliers, large electricity users and retailers.

CAISO ... from 1

However, neither the CAISO, the Department of Market Monitoring, nor the Market Surveillance Committee provides any evidence supporting the duration of the transition," FERC found.

CAISO may propose a shorter period for position limits given the potential illiquidity at certain nodes at the outset of convergence

bidding, which in turn could lead to distorted market outcomes, FERC added.

The Commission approved CAISO's proposal to implement convergence bidding on a nodal level. FERC rejected requests from financial marketers to allow convergence bids smaller than one megawatt, though the Commission agreed that the CAISO's conceptual filing lacks certain details regarding the bid aggregation element of its proposal which needs to be explained.

Convergence bidding should also be permitted at the interties, FERC agreed. However, FERC rejected as unsupported the CAISO's plan to impose position limits at the interties for 36 months.

FERC also declined to link convergence bidding with the use of bid-in demand rather than forecast demand, suggested by some parties such as Pacific Gas & Electric as required for mitigation. "There is no evidence that the implementation of convergence bidding will render existing mitigation procedures less effective, and we are concerned that requiring the use of bid-in demand at this time could ultimately delay the implementation of convergence bidding. We find that the timely implementation of convergence bidding will prove most beneficial to market participants. Therefore, we will not require the CAISO to begin using bid-in demand simultaneously with the implementation of convergence bidding," FERC held.

FERC agreed in principle with CAISO's sought authority to suspend a convergence bidder whose bids distort market outcomes, but FERC stressed that suspension authority must be subject to, "clearly and objectively defined tariff provisions that explain the instances in which the CAISO will exercise such authority." CAISO's filing, "does not contain sufficiently detailed or objective language and may be read as introducing unacceptable CAISO subjectivity in making a suspension determination," FERC said in directing revisions.

The Commission accepted CAISO's proposed convergence bidding credit policy, as well as its proposal to establish the following charges for convergence bidding: (1) a new convergence bidding charge; (2) a settlements, metering and client relations charge; and (3) a

transaction fee.

FERC concluded that CAISO's proposal presented insufficient evidence to determine the appropriate treatment of uplift costs for convergence bidders.

While FERC said that the timing of CAISO's request to delay the start of convergence bidding until February 1, 2011, "leaves the Commission with no practical alternative but to grant the motion for extension of time," FERC stressed that, "further delay is unacceptable." FERC thus directed CAISO to provide monthly status updates on convergence bidding implementation, beginning April 1, 2010.

FERC denied requests for a further technical conference on convergence bidding, and denied requests that the Commission require CAISO to seek approval for all new market functionality.